

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Subordination of Utility Interest Agreement

DEPARTMENT: County Attorney's Office

DIVISION: Property Acquisition

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Execute Chapman Road Subordination of Utility Interest Agreement (Parcel Numbers 104, 145, 145A, and 146) between Seminole County and Bright House Networks, in conjunction with the Chapman Road improvement project.

District 1 Bob Dallari

Robert A. McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends that the Board execute the Chapman Road Subordination of Utility Interest Agreement (Parcel Numbers 104, 145, 145A, and 146) between Seminole County and Bright House Networks, in conjunction with the Chapman Road improvement project.

ATTACHMENTS:

1. Subordination of Utility Interest - Chapman Road

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, County Attorney

FROM: Neil Newton, R/W-NAC, Major Projects Acquisition Coordinator
Ext. 5736

CONCUR: Antoine Khoury, P.E., Assistant County Engineer

DATE: February 12, 2009

SUBJECT: Easement Holder:
Bright House Networks, LLC
Chapman Road road improvement project
Parcel Nos. 104, 145, 145A and 146

Matthew G. Minter

AK 2-10-09

This Memorandum requests approval by the Board of County Commissioners (BCC) and execution by the Chairman of a Subordination of Utility Interests agreement with respect to the Easement interests of Bright House Networks, LLC. "Bright House," on the Chapman Road improvement project. The Easement interests relates to Parcel Nos. 104, 145, 145A and 146. Acquisition of these parcels is underway.

The BCC adopted Resolution No. 2008-R-140 on June 10, 2008 authorizing the acquisition of parcels involved with Chapman Road and finding that the Chapman Road road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

Bright House has signed and tendered a recordable instrument, entitled Subordination of Utility Interests for filing in the land records. Please see the location map attached as Exhibit A and a copy of the Subordination agreement attached as Exhibit B.

Bright House's interest in the referenced parcels is easements for construction, operation and maintenance of cable television facilities. Bright House has agreed to provide the subordination of its easements interest without charge. This will also preclude Bright House's involvement in any eminent domain case to be filed.

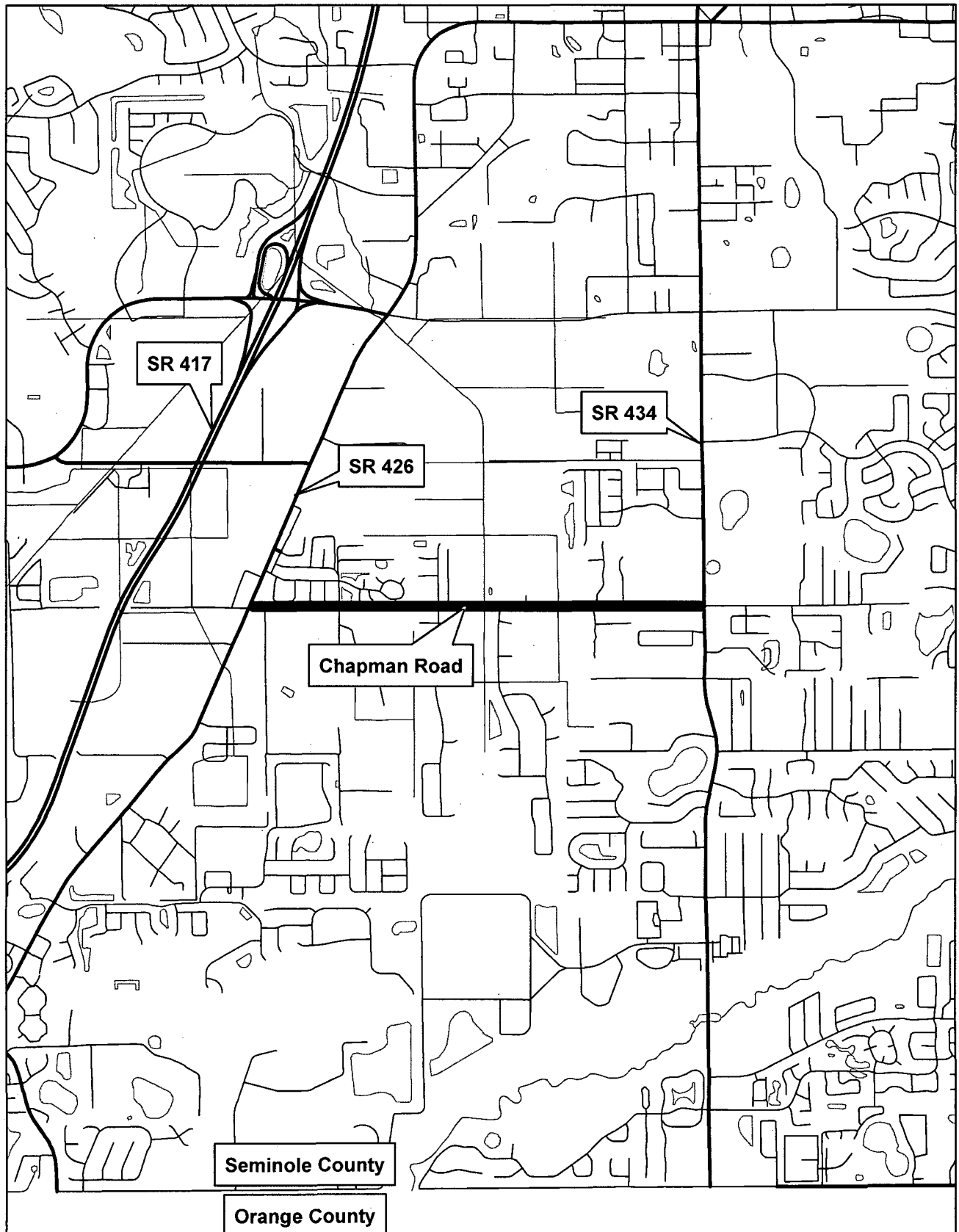
MGM/dre

Exhibit A - Location Map

Exhibit B - Subordination Agreement

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CHAPMAN ROAD



THIS INSTRUMENT PREPARED BY:
NEIL NEWTON, R/W-NAC
MAJOR PROJECTS ACQUISITION COORDINATOR
1101 EAST FIRST STREET
SANFORD, FL 32771
(407) 665-5736

SUBORDINATION OF UTILITY INTERESTS

THIS AGREEMENT, entered into this _____ day of _____, 200__, by and between BRIGHT HOUSE NETWORKS, LLC., successor to Cablevision Industries and Time Warner Entertainment-Advance Newhouse Partnership, whose address is 5000 Campuswood Drive, East Syracuse, New York 13057, hereinafter referred to as the "COMPANY", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY".

W I T N E S S E T H:

WHEREAS, the COMPANY presently has an interest in certain lands that have been determined necessary for use as right-of-way for additional traffic lanes and improved drainage facilities on **Chapman Road**; and

WHEREAS, the proposed use of these lands for use as right-of-way for additional traffic lanes and improved drainage facilities purposes on **Chapman Road** will require subordination of the interest claimed in such lands by the COMPANY to the COUNTY; and

WHEREAS, the COUNTY is willing to pay to have the COMPANY's facilities relocated, if necessary, or to replace COMPANY's easements with new easements encumbering different lands if necessary, to prevent conflict between the facilities so that the benefits of each may be retained,

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, the COMPANY and the COUNTY agree as follows:

THE COMPANY subordinates any and all of its interest in the lands described as follows:

(See, legal descriptions attached as Exhibit A) 4 pages

to the interest of the COUNTY, its successors, or assigns, for the purpose of constructing, improving, maintaining and operating a road, including drainage facilities, over, through, upon, and/or across such lands, including, but not limited to, the claim of interest based on the following:

NATURE OF ENCUMBRANCE	DATE	FROM OR AGAINST	IN FAVOR OF	RECORDED BOOK/PAGE
Easement Deed	02/08/1988	Lutheran Haven, Inc.	Cablevision Industries, d/b/a Bright House Networks, LLC	1929/1401
Easement Deed	12/13/1990	Lutheran Haven, Inc.	Cablevision Industries Limited Partnership, d/b/a Bright House Networks, LLC	2292/55
Notice of Easement	10/18/2002	Lutheran Haven, Inc.	Time Warner Entertainment -Advance/ Newhouse Partnership, d/b/a Time Warner Cable	4961/1099

PROVIDED that the COMPANY has the following rights:

1. The COMPANY shall have the right to construct, operate, maintain, remove, and relocate facilities on, within, and upon the lands described herein. Any new construction or relocation of facilities within the lands will be subject to prior approval by the COUNTY's Engineer.

2. The COMPANY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the COUNTY's facilities.

3. The COMPANY agrees to repair any damage to COUNTY facilities and to indemnify the COUNTY against any loss or damage resulting from the COMPANY exercising its rights outlined in Paragraphs 1 and 2 above.

4. Should the COUNTY require the COMPANY to alter, adjust, or relocate its facilities located within said lands, the COUNTY hereby agrees to pay the cost of such alteration, adjustment or relocation, including, but not limited to the cost of acquiring appropriate replacement easements. Any relocation, alteration or removal of COMPANY's facilities not required by the COUNTY shall be performed at COMPANY's sole cost and expense.

[Signature Page begins on Page 3]

IN WITNESS WHEREOF, the parties have executed this Agreement on
the day and year first above written.

WITNESSES

BRIGHT HOUSE NETWORKS, LLC

By: Advance/Newhouse Partnership
Its' Managing Member

Michael P. Dyleski
Signature

MICHAEL P. DYLESKI
Print Name

PS King
Signature

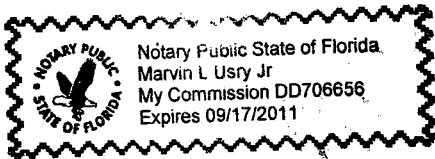
PS King
Print Name

Michel C. Champagne
Print Name: MICHEL CHAMPAGNE

Date: 12-22-08

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 7th day
of JANUARY, 2009, by MICHEL CHAMPAGNE, who is
personally known to me, or who has produced _____ as
identification.



Marvin L. Usry Jr.
Print Name MARVIN L. USRY, JR.
Notary Public in and for the County
and State Aforementioned
My commission expires: 9/17/2011

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

For the use and reliance
of Seminole County only.

Date: _____

As authorized for execution by the Board
of County Commissioners at its _____,
2009, regular meeting.

Approved as to form and
legal sufficiency.

County Attorney

NN/dre
12/08/08
Attachment
Exhibit A - Legal Descriptions

EXHIBIT A

R/W Project: Chapman Road
R/W Parcel: 104
Tax I.D. #: 20-21-31-300-011C-0000
20-21-31-5CB-0000-00G0

FEE SIMPLE

PROPOSED RIGHT OF WAY LEGAL DESCRIPTION:

A PORTION OF LOT "G", SLAVIA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 6, PAGE 97, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, AND A PORTION OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE SOUTH 88°43'53" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20, A DISTANCE OF 1136.28 FEET; THENCE NORTH 01°16'07" EAST, A DISTANCE OF 50.00 FEET TO THE POINT OF INTERSECTION BETWEEN THE NORTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER OFFICIAL RECORDS BOOK 2064, PAGE 186, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA AND THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 426, ALSO KNOWN AS ALOMA AVENUE, PER THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION 77060-2518, AND THE POINT OF BEGINNING; THENCE NORTH 32°14'14" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 36.04 FEET; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE NORTH 24°26'51" EAST, A DISTANCE OF 60.67 FEET; THENCE SOUTH 32°01'14" EAST, A DISTANCE OF 47.72 FEET TO A POINT 95.00 FEET, WHEN MEASURE PERPENDICULAR, FROM THE BASELINE OF SURVEY OF CHAPMAN ROAD, PER THE SEMINOLE COUNTY, FLORIDA, RIGHT-OF-WAY MAP FOR CHAPMAN ROAD, DATED JULY, 1992 ; THENCE SOUTH 88°41'43" EAST, PARALLEL TO SAID BASELINE OF SURVEY, A DISTANCE OF 257.13 FEET TO A POINT ON THE WEST LINE OF THE PROPERTY RECORDED ON THE OFFICIAL RECORDS BOOK 5155, PAGE 300, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE SOUTH 02°00'30" WEST ALONG SAID WEST LINE, A DISTANCE OF 45.78 FEET TO A POINT ON THE SAID NORTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD; THENCE NORTH 88°43'53" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 286.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,589 SQUARE FEET OR 0.335 ACRES, MORE OR LESS.

EXHIBIT A

R/W Project: Chapman Road
R/W Parcel: 145
Tax I.D. #: 20-21-31-300-0110-0000

FEE SIMPLE

PROPOSED RIGHT OF WAY LEGAL DESCRIPTION:

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 20 AND THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 21; HENCE SOUTH 00°14'52" WEST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 21, A DISTANCE OF 2630.25 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER DEED BOOK 81, PAGE 136, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, AND THE POINT OF BEGINNING; THENCE NORTH 88°43'53" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 648.39 FEET TO THE EASTERLY LINE OF THE PROPERTY RECORDED ON THE OFFICIAL RECORDS BOOK 5155, PAGE 300, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE NORTH 00°49'01" EAST ALONG THE EASTERLY LINE OF SAID PROPERTY, A DISTANCE OF 59.79 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 5789.58 FEET, A CENTRAL ANGLE OF 02°42'23" AND A CHORD BEARING OF SOUTH 83°52'12" EAST; THENCE FROM A TANGENT BEARING OF SOUTH 85°13'23" EAST, RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 273.46 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5669.58 FEET, A CENTRAL ANGLE OF 03°39'50" AND A CHORD BEARING OF SOUTH 84°20'56" EAST; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 362.55 FEET; THENCE NORTH 48°29'13" EAST, A DISTANCE OF 24.16 FEET; THENCE SOUTH 86°30'23" EAST, A DISTANCE OF 30.00 FEET; THENCE SOUTH 41°30'51" EAST, A DISTANCE OF 17.13 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5664.58 FEET, A CENTRAL ANGLE OF 00°05'41" AND A CHORD BEARING OF SOUTH 86°49'36" EAST; THENCE FROM A TANGENT BEARING OF SOUTH 86°46'46" EAST, RUN EASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 9.36 FEET; THENCE SOUTH 03°³³/₆₄ °07'33" WEST, A DISTANCE OF 5.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5669.58 FEET, A CENTRAL ANGLE OF 02°33'08" AND A CHORD BEARING OF SOUTH 88°09'01" EAST; THENCE FROM A TANGENT BEARING OF SOUTH 86°52'27" EAST, RUN EASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 252.56 FEET TO A POINT ON THE SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 89°25'35" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 306.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 22,754 SQUARE FEET OR 0.522 ACRES, MORE OR LESS.

EXHIBIT A

R/W Project: Chapman Road
R/W Parcel: 145A
Tax I.D. #: 20-21-31-300-0110-0000

FEE SIMPLE

PROPOSED RIGHT OF WAY LEGAL DESCRIPTION:

A PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 21; HENCE SOUTH 00°14'52" WEST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 21, A DISTANCE OF 2630.25 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER DEED BOOK 81, PAGE 131, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE SOUTH 89°25'35" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 306.11 FEET TO THE POINT OF BEGINNING AND A POINT ON A TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5669.58 FEET, A CENTRAL ANGLE OF 03°39'25" AND A CHORD BEARING OF NORTH 88°44'43" EAST; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 361.87 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 11519.16 FEET, A CENTRAL ANGLE OF 03°18'06" AND A CHORD BEARING OF NORTH 88°34'03" EAST; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 663.80 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 21; THENCE SOUTH 00°09'37" WEST ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 21, A DISTANCE OF 34.78 FEET TO A POINT ON SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 89°25'35" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1025.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 18,874 SQUARE FEET OR 0.433 ACRES, MORE OR LESS.

EXHIBIT A

R/W Project: Chapman Road
R/W Parcel: 146
Tax I.D. #: 20-21-31-300-011B-0000
20-21-31-5CB-0000-00G1

FEE SIMPLE

PROPOSED RIGHT OF WAY LEGAL DESCRIPTION:

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 20; HENCE SOUTH $00^{\circ}14'52''$ WEST ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20, A DISTANCE OF 2655.25 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 20; THENCE NORTH $88^{\circ}43'53''$ WEST ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20, A DISTANCE OF 648.64 FEET; THENCE NORTH $00^{\circ}49'01''$ EAST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING AND A POINT OF INTERSECTION BETWEEN THE NORTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER DEED BOOK 81, PAGE 136, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, AND THE EASTERLY LINE OF THE PROPERTY RECORDED ON THE OFFICIAL RECORDS BOOK 5155, PAGE 300, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE NORTH $88^{\circ}43'53''$ WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 351.21 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER OFFICIAL RECORDS BOOK 2064, PAGE 186, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE NORTH $00^{\circ}14'07''$ EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 25.00 FEET; THENCE NORTH $88^{\circ}43'53''$ WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER OFFICIAL RECORDS BOOK 2064, PAGE 186, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, A DISTANCE OF 231.56 FEET TO A POINT ON THE WEST LINE OF THE PROPERTY RECORDED ON THE OFFICIAL RECORDS BOOK 5155, PAGE 300, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE NORTH $02^{\circ}00'30''$ EAST ALONG THE WEST LINE OF SAID PROPERTY, A DISTANCE OF 45.78 FEET TO A POINT 95.00 FEET, WHEN MEASURE PERPENDICULAR, FROM THE BASELINE OF SURVEY OF CHAPMAN ROAD, PER THE SEMINOLE COUNTY, FLORIDA, RIGHT-OF-WAY MAP FOR CHAPMAN ROAD, DATED JULY, 1992; THENCE SOUTH $88^{\circ}41'43''$ EAST PARALLEL TO SAID BASELINE OF SURVEY, A DISTANCE OF 231.53 FEET TO A POINT ON A TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 5789.58 FEET, A CENTRAL ANGLE OF $03^{\circ}28'20''$ AND A CHORD BEARING OF SOUTH $86^{\circ}57'33''$ EAST; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 350.85 FEET TO A POINT ON THE EASTERLY LINE OF THE PROPERTY RECORDED ON THE OFFICIAL RECORDS BOOK 5155, PAGE 300, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE SOUTH $00^{\circ}49'01''$ WEST ALONG THE EASTERLY LINE OF SAID PROPERTY, A DISTANCE OF 59.79 FEET TO THE POINT OF BEGINNING.

CONTAINING 34,104 SQUARE FEET OR 0.783 ACRES, MORE OR LESS.